

# Modernization and Socio-economic Conflict : Lawsuits by Chiga Farmers in Uganda

Motoyoshi Omori

## Introduction

This paper focuses on changes in the rural life of Chiga farmers in Uganda as manifested in certain dispute cases brought to the Magistrate Court in the village (*gombolola*) of Buhara. My fieldwork reveals clear areas of on-going innovation in rural life. These changes have compelled local people to alter their ways of thinking as well as their modes of behavior. My investigation shows that major variables associated with accelerating modernization include: the spread of money economy; experience of urban life; reforms in administrative and juridical institutions; and extension of school education.

Litigation records are good documents to show trends in rural life in response to Westernization. The Third Grade Magistrate Courts, the village courts, and the “amelioration” of judicial procedures and organizations, provide an abundance of examples of obstacles and barriers to the course of change. The introduction of new economic institutions and advances in education have also enhanced social tension and resulted in the development of new sorts of disputes and conflicts. The effects of Westernization have influenced all dimensions of rural life. Careful inspection of these changes show the specific issues involved in disputes among the local inhabitants.<sup>1)</sup>

It is therefore important to keenly scrutinize the following factors: 1) causes of the dispute; 2) ways of expression and attitudes of the litigants; 3) disputed objects; 4) dispute management; 5) persons engaged in managerial tasks and 6) the response of the local inhabitants towards the process and the outcome of a dispute solution. First, one must inquire about the nature of conflict and goods which did not exist before large scale Western influence.<sup>2)</sup> Secondly, one should examine the effects of newly introduced norms and areas where interests clash. Thirdly, an investigator should be careful to note attempts by those involved in the court session, particularly statements made by judges which may work to change established norms of behavior. A judge may act as an agent of innovation, as newly achieved norms would, through his judgments, constrain the specific mode of conduct of the local people in general.<sup>3)</sup> Any legal compulsion should be mitigated by compromise, especially in the course of interactions between the old and the new. New norms would be accepted or rejected by people in local areas. Their attitude to any legal compulsion, such as the judgments issued in court trials, is worthy of careful analysis.<sup>4)</sup> A close observation of the norms

and radical predilections reveals vital cues to understand the framework in which change is taking place in society.

It may be, at least from the view of legal anthropology, legitimate to pursue a dispute case by reviewing the sequence of events from the outset to their resolution. An approach of this sort has been thought essential, mostly by the scholars of processual studies on disputes. I rejected this survey method for two reasons: shortage of time and my concern with sociology. I focused specifically on the litigation records which were kept at the village court, *Gombolola* Buhara. I also conducted live-in observation and interviews to achieve basic understanding of the rural life and social framework. The field experience enabled me to focus on relevant cases for delineation and analyses.

Of the cases which were filed and heard at the court between 1965 and 1967, fifteen were selected to illustrate aspects of rural life during the shift away from traditional modes of behavior. The cases included information on: 1) the spread of a money economy; 2) individual dispositions and values; 3) dissolution of the composite family; and 4) integrating newly emancipated individuals. The spread of a money economy raised a variety of troubles which had not been common in rural life such as bus fares, wages and loans. Certain claims in the court incidentally posed apparent individualistic dispositions of those involved. The authority traditionally vested in the head of the family, in contrast, weakened and in consequence supervisory powers over dependants also declined. Emancipated family members were nonetheless forced to submit to administrative and judicial controls.

## Money and Disputes

### 1. The Spread of Money Economy

The impact of Westernization can be seen in the following eight examples of dispute cases, each of which relates to the spread of money economy. They show not only its diffusion, but changes in life style, changes in normative values, and trends toward social stratification.

#### Case 1 (bus fare)<sup>5)</sup>

On September 28, 1966, Magyera, aged 30, took a bus for Rwene at the Kabale bus depot in the afternoon. He began to quarrel with Bampata, aged 32, a bus conductor, over the baggage fare of his half sack of Irish potatoes. He eventually paid the fare only after being warned that he would be thrown off the bus.

They quarreled again near the terminal of the bus route and Magyera was compelled to get off on the way to Rwene. His baggage was left on the road along the bus route. Magyera, subsequently, filed a claim for Shs. 377 / = compensation against Bampata and the bus company for the lost items.

Magyera was not successful in his suit. He had also confronted Bampata in another case which had occurred one month earlier (Case 7). It might have been the cause of the quarrel on the additional bus fares. Setting aside the wrangle between the two, the

bus fares obviously refers to some urgent conflict in changing rural life; the necessary visits to Kabale, means of transportation and expenditure in cash.

Magyera was running a general shop at the Rwene Trading Centre, located at the end of village Buhara. He had to travel on the hilly road frequently to Kabale to replenish his supplies. It was approximately 20km between Rwene and Kabale. Magyera was forced to depend on bus transportation to and from the town with purchased items. The other inhabitants at Buhara had also to visit the district capital to transfer to other bus routes to attend wedding or funeral ceremonies of their relatives.

Two bus services were offered by a private firm. The bus stopped at every one mile (1.6km) point between 16 miles of the Rwene-Kabale route. Passengers had to pay fares in cash, and the sums were relatively high in comparison with incomes of ordinary farmers. Healthy men could cover the distance by foot or bicycle. Elderly men and women, or those under medical care, in contrast, relied fully on the bus. An alternative transport was a shared taxi (*matatu*), which also charged fares in cash. Currencies became indispensable in various phases of daily life: examples include payment of poll tax (women exempted), school fees, purchasing clothes, tools and utensils.<sup>6)</sup>

Ordinary farmers could not avoid spending some money in their daily life. Currencies had already penetrated into their livelihood not only as a means of commodity or service exchange, but as a clue of transforming their way of living, as illustrated below.

## 2. Modified Usages

Conventional style of labor exchange had been replaced by employing wage labor.

### Case 2 (wages)<sup>7)</sup>

Ngurusi, an inhabitant of *Muruka* Kafunjo hired Babilisaki, who subsequently repaired the wall of Ngurusi's house and demanded an agreed upon sum, Shs. 198 / =, for his labor. Ngurusi only paid Shs. 90 / =. Babilisaki claimed the rest of the payment of the wages at a court. Babilisaki lost the case, for he filed the case after seven years had passed. Any credit should have been claimed within six years according to the Limitation Act.

Chiga farmers used to collaborate among each other so that they might build or repair their huts. For preparation, one had to collect necessary materials and plenty of beer to serve the helpers. A number of neighbors and friends assembled to work together and enjoyed a feast afterwards. The wives also brought food and fuel for the feast. (Edel 1957: 85–86) Such collaboration formed a reciprocal pattern of labor services. In contrast with this, employment of a wage worker as seen in Case 2, concluded the relation in the short run. Neither of the counterparts sought to establish lasting links between themselves. As a fabricated network of interaction constructed the traditional framework of society, any default in performing their reciprocal duty would eventually lead to a fundamental change of the original social system.

Farmers could no longer expect labor services without paying wages. Not only neighbors but kin and even family members were hired to work. At Ntarabana

(*muruka*), Kuribakanya, aged 26, employed his real brother, Bakarweha, aged 30, to build a new house. They agreed on a payment of Shs. 43 / = monthly, but the money was not paid. Bakarweha then raised a claim to recover his debt against Kuribakanya five years later.<sup>8)</sup>

The judgment revealed a prevalent practice of hiring close kin with cash payment as wages. The spread of money economy had consequently modified the former system of reciprocal labor services at large.

Case 3 (pledge)<sup>9)</sup>

Ntungireyo pledged his land to borrow Shs. 100 / = from Kahigyimo in June of 1962. They both lived in the same *Mutongole* Kyase. As the money was not returned, Kahigyimo began to cultivate the land three years later in August of 1965. Ntungireyo's brother, Kasiri, impeded Kahigyimo's use of the land and was sued at the court.

The judge allowed Kahigyimo to continue to cultivate the land, but ordered him to return the land to Ntungireyo at full discharge of his debt.

Demand for farmland was acute among the Chiga farmers. Land sale became common after 1940s, and such transactions were active around Buhara at the time of my observation. Pledging of land was not a common practice. One could, in fact, scarcely distinguish pledge from a sale, if the land in dispute had been left fallow for years. Ownership or the right to use land could only be claimed by actual residence on or cultivation of the land. In Case 3, despite Kahigyimo's insistence of the land transaction, Ntungireyo's acknowledgement of a debt was written in the presence of three witnesses. The document was evidence of the land pledging.

Raising cash became urgent for the farmers so that they might pay fines or compensation in accordance with a court order, poll tax, transportation fares for visiting relatives or labor migration, school fees, or bridewealth. Land sale was, then, the easiest access to money at any pressing necessity. Pledging might be an alternative to land sale, and it followed the same procedure for land transaction; the sums were handed over in exchange of a written agreement in the name of the borrower who might have stipulated the terms in the agreement; the due date of repayment and, occasionally, penalty fines for delay in reimbursement. Case 4 below illustrates an example.

Case 4 (default interest)<sup>10)</sup>

Bakarweha, aged 30, and his real brother Kuribakanya, aged 26, lived in Kifundugu hamlet. The elder brother lent Shs. 100 / = to his younger brother in November of 1962. They wrote an agreement that the loan would be repaid by six months later, which was on the May 1st, 1963. They added in the agreement Shs. 10 / = for penalty fine in the case of delay.

Bakarweha urged the borrower to reimburse the money several times after the due date. Bakarweha eventually took Kuribakanya to court. The judge ordered the latter to pay Shs. 110 / = including the penalty fine which was stated in the agreement.

It might be coincidental that Kuribakanya had left on labor migration around the date when his loan was due. He had also earlier in the same year hired Bakarweha to build a house. He had gone to Buganda District to work, without reimbursing the debt or paying the wage to his elder brother. Kuribakanya might have intended to clear all the debt with his income from the labor migration, but he could not fulfill the obligation and was brought to court.

The litigants in this case were real brothers, living in the same hamlet. Their close kinship and residential ties did not necessarily encourage collaboration for mutual assistance. Their conduct appeared excessively calculating, but such behavior was rather common between close kin. Any bond of reciprocal services without immediate material rewards could scarcely endure between those sharing a blood tie. On the contrary, acute collision inevitably took them to court; as parent vs son, real or half siblings, uncle vs nephew.

Interest was not a common understanding nor practice among Chiga farmers. Government employees working at the village (*gombolola*) headquarters, school teachers and shop keepers had accounts with a few commercial banks in Kabale. The majority of rural inhabitants did not deposit their money to these banks nor with the post office of the town. Even in the case of their poll tax default, no additional interest was charged by the government.

### 3. Altered Norms

Traditional norms underwent remarkable change as seen in Case 5.

Case 5 (dealing with stolen items)<sup>11)</sup>

Tibashemererwa, aged 25, noticed the loss of her brother's masonry tools on January of 1966. She asked somebody to search for the lost tools and found them at the houses of two residents of *Muruka* Buhara where she also lived. The men who had the tools were Katamwobwa and Butamanya. Zi, male, aged 21 who had sold the tools was subsequently arrested. The stolen tools were worth Shs. 81/=, and included two scales, a plane an ax and a plow. Zi was sentenced to five months of imprisonment. All the tools were recovered by the plaintiff's brother.

There were nineteen other cases involving theft during the three years.<sup>12)</sup> Penalties varied conspicuously in accordance with the variety of stolen items. Fines were between Shs. 20/= and Shs. 100/=; compensations were between Shs. 20/= and Shs. 170/=. It was evident, however, that penalties were much heavier in case of the theft of non-agricultural goods. The single exception was two months imprisonment imposed upon a thief who had stolen some cassava. Cassava was not grown in the southern Kigezi and it could be taken for a commercial item. The theft of agricultural products such as peas, maize, Irish potatoes or lumber were mostly punished not by imprisonment but by fines and compensation as noted in above.

The penalty of five months of imprisonment in Case 5 may appear to be excessively

severe, seeing that the stolen tools were worth Shs. 82/= in total. There were, however, other relevant cases such as stolen cash amounting to Shs. 40/= induced a sentence of imprisonment for three months. (1965, Criminal Case, No. 19) The theft of a sweater could result in imprisonment for three months. (1965 Criminal Case, No. 28) In Case 5, Zi had sold the stolen tools and the conduct called forth a heavier penalty. This action made him appear like a professional thief. Another example of heavy penalty can be seen in another case (1966, Criminal Case, No. 61), in which a man was sentenced to six months imprisonment for stealing and slaughtering livestock. The thief stole three head of cattle and six head of sheep. Moreover, he slaughtered one of the sheep as he was escaping with the remaining livestock.<sup>13)</sup> Neither Zi nor the above criminals were allowed exemptions from their fines or imprisonments.

One can readily discern the effects of economic development in the different degrees of punishment given to people convicted of theft: lighter punishment in the case of agricultural products and heavier punishment in the theft of industrial and commercial items. The differentiation clearly corresponded to rural inhabitants and their demand for industrial commodities such as clothing and tools. Their livelihood still largely depended upon the subsistence economy with little access to raising cash in the locality. Money and industrial items could be obtained by selling land, cattle or migrating for hard labor at some distance.

Court cases and sentences not only reflected the circumstances, but also ushered in ideas which were novel among the people: superiority of manufactured commodities over homemade products, and superiority of industrial work and wage labor to agricultural work. Eventually this caused the necessity of cash income for ordinary farmers. Monetary income indeed encouraged cleavages between rural inhabitants as depicted in the following example.

#### **4. Status Cleavages**

The Buhara inhabitants varied in their monetary income, which inevitably created status differentiation within rural society.

Case 6 (purchasing a luxury item)<sup>14)</sup>

Buhire was attacked and slightly injured by Bi at a bar of *Muruka* Muyebe in the evening of October 8th, 1967. Buhire injured his finger. His shirt was also torn. He was the real brother of the owner of the bar. Bi had been committed to prison earlier for having assaulted another person. This compounded the penalty and caused Bi to be sentenced to six months of imprisonment.

Bi and Buhire both lived in Muyebe. Bi testified that he did not hold any grudge against Buhire. He was drunk when he committed the assault. Their fight may have occurred incidentally. Despite Bi's testimony at the court, one could readily discern in this example the submerged hostility shared by the rural community against the local elites. The antagonism arose from a discrepancy in cash income. Buhire had a Shs. 100 / = banknote with which he intended to purchase a wristwatch from someone at

the bar. After drinking a bowl of sorghum beer, he made an inquiry about the one who had the watch. Then, Bi attacked and assaulted Buhire.

Any ordinary farmer would feel it difficult to possess cash in the amount of Shs. 100 / =, unless he sold his valuable property such as his cattle or his land. Even if one was fortunate to have earned such a sum, one would have to spend it for the pressing costs of living, such as tax payment, school fees, fines or compensations, bride-wealth, house building or labor migration. Only a few could afford to buy a wristwatch. A watch was not a necessity in rural life; rather a wristwatch in the middle 1960s was worn as a status symbol, not only in the countryside but also in the large towns of Uganda. Buhire was not of an important status such as being a government employee or a school teacher or anybody to whom such an item might be of practical use.

Bi was one of those ordinary farmers who lacked any effective means of raising cash. In this sense, Bi represented the community's economic standard, and its ardent desire to have access to capital. There would seemingly be no accountable reason for the community to accept inequalities of cash income between the majority and the minority of the village. Those being affluent with cash were thought merely to have been lucky in climbing the social ladder or to have cunningly cheated the rest of the community to multiply profit. This sort of pervading suspicion provoked jealousy and repugnance in the rural area.

Buhire, while drinking beer, might have displayed the banknote which he was going to use to buy the wristwatch at the bar. This must have unconsciously stirred Bi's suppressed discontent and frustrations, and he could not hold himself back from attacking Buhire. No specification was found in the litigation record as to how Buhire had obtained the sum of Shs. 100 / =. His attempt to purchase the luxury item itself denotes his affluent cash earning. His wife was working at the bar, in which Buhire could enjoy drinking sorghum beer free of charge, while the other farmers had to pay cash to enjoy a bowl. One's ability to buy beer, and how frequently and what quality of beer one could buy were all ways of showing one's prestige and power in the locality. (Omori 1978: 101) The cleavage between the community and the elite is also apparent in the following case.

#### Case 7 (vanished cash)<sup>15)</sup>

A large sum of cash, Shs. 350 / =, disappeared at Magyera's general store (Case 1) at Rwene one morning on the 13th July in 1966. Two girls were incidentally in the shop when the money vanished and were suspected. They were put in surveillance because there was no evidence of theft. A few weeks later one of the girls, Ngabirano, was reported to have had several goods such as a radio, an one-piece dress, a sweater and a sheet. Magyera then sued her for having stolen the sum of money.

In the course of court trial, the charges against Ngabirano were discharged, for these goods had either belonged to someone else or had been bought with money



given by her kin or by a friend. The radio, worth Shs. 170 / =, was one of the two owned by Bampata. The sheet belonged to Ngabirano's sister. The sweater was purchased for Shs. 30 / = which Ngabirano's father had given her. As to the one-piece dress, priced at Shs. 35 / =, of which Sh. 25 / = had been given to Ngabirano by her grandmother and the remaining Shs. 10 / = was given to her by Bampata's wife. Ngabirano's innocence was firmly determined when the sum of Shs. 350 / = was found in a corner of the shop. Magyera gave all the money to Ngabirano.

This was, in fact, an unusual case. In the eyes of ordinary farmers, the local elites spent money lavishly. Magyera, Bampata and Bakamunuza, were all well off and Ngabirano's father had a relatively affluent income.<sup>16)</sup> The sum of Shs. 350 / = was approximately two months' income for an ordinary farmer in the area. One could purchase, with this total amount, either 0.2 acre (8 ares) of farmland or a bull. Magyera, however, gave the money to Ngabirano, although he may have had ulterior motives.<sup>17)</sup>

Bampata was a bus conductor who earned a fixed wage monthly. He owned two radios, one of which he had generously let to Ngabirano. His wife also gave Shs. 10 / = to the girl, even though these women were not closely related. The sum, Shs. 10 / =, was twice a day's wages in the field. One could buy ten bowls of beer at a local bar. Any common housewife could not be bountiful enough to give Shs. 10 / = to a girl with whom she was not closely associated.

Their way of life or consumption differed greatly from that of other farmers, who relied solely on crops of little commercial value and who only had rare opportunities for day labor, in which Shs. 5 / = or less was paid. Lacking access to funds to open and run a business, or to accomplish a high level of educational, or professional qualifications, one could scarcely elevate oneself to be a local elite earning a stable and good income. The infiltrating money economy increasingly demarcated the commoners from the elite in rural society.

## Social Change and Disputes

### 1. Scorned Customs

Disputes rise normally in clashes between opponents of different views. They may well have been caused by underlying problems sparked by new norms of conducts, brought about in the process of Westernization. Some examples appear in the following cases.

#### Case 8 (marriage registration)<sup>18)</sup>

Kakyekorera (aged 23), a villager of *Gombolola* Rubanda, eloped with the daughter of Rwabushoma, an inhabitant in Rwene a few years earlier. Kakyekorera later visited his father-in-law in Rwabushoma to negotiate the retroactive approval of their marriage.

Rwabushoma demanded Shs. 1,000 / = in cash, two heads of cattle and one goat. After the payment Kakyekorera requested Rwabushoma to accompany



him to the village headquarters to register their marriage, but Rwabushoma refused. Besides that he defamed his daughter at Rwene when she had visited her parents.

Kakyekorera decided to divorce the wife and claimed for reimbursement all that was delivered to Rwabushoma. In the trial, Rwabushoma agreed to return all of the livestock, but he insisted on not returning the Shs. 1,000 / =, the money which he had imposed as a fine for their elopement.

The judge, however, ordered Rwabushoma to reimburse all that he had received from his son-in-law, including the Shs. 1,000 / =. There was no fault in Kakyekorera, for the girl had already reached her adulthood at the time of their marriage, twenty years old. She should have been responsible for her conduct. The judge, consequently, determined that all payments made by the complainant as bridewealth should be refunded at divorce to Kakyekorea.

The judgment deviated from the customary rule of Chiga marriage, in which no one could object to a father's decision on marriage conditions. As his marriage had followed the way of conventional elopement, Kakyekorera should have obeyed his father-in-law and paid Shs.1,000 / = as a fine for having committed abduction of the girl. The judgment rejected any paternal right in interfering on the dependants conduct after achieving his/her adulthood.

According to Chiga custom, every marriage had to be an affair arranged between families. If faithfully followed by formal procedures, it should be negotiated between the head of the two families concerned,<sup>19)</sup> involving the use of middle men to make the necessary arrangements. Much time and effort were required before reaching conditions satisfactory to both families. The length and complexity of the negotiating process were highly valued in order to enhance the prestige of both family heads, who had to host a lavish feast for all of their relatives and neighbors. Any marriage, consequently, was to offer a rare opportunity of swelling prestige and power of the family head of the local community.

The elopement deprived the family head of all these advantages for they skipped the marriage negotiations, arrangements and the feast. Elopements were admitted and commonly practiced as another pattern of customary marriage, but much lower appreciation would be vested on both families and on the new bride and groom. A penalty fine was required to cover the shame suffered by the bride's father, who had been left completely ignorant of the abduction. If the man's father had been consulted previously, his daughter might live in the same compound, and would be given a new house and a plot of land to cultivate.

Despite later negotiations and retroactive approval from the once neglected father, it was not easy to dispose of grudges against his son-in-law. This might have caused Rwabushoma's denial to go through with the marriage registration. Kakyekorera had visited his father-in-law three times, asking in vain for his consent on the registration, but Rwabshoma's obstinate denial and Kakyekorera's persistence on the marriage registration posed another problem. A possible substitution for the marriage registra-

tion would be to include traditional customs in the marriage.

Kakyekorera's marriage was established from a customary point of view, for his father-in-law had received money and livestock. The registration at the village headquarters would not therefore attach any more benefit to either of the spouses. Regardless of being registered or not, the wife or children were granted to hold equal legal rights and duties in the case of inheritance or of a divorce. From the traditional view point, the registration merely had a subsidiary significance in the formal procedures.<sup>20)</sup>

In reality, however, it might become a trend that rural inhabitants adopted marriage registration as an alternative for the traditional marriage customs. Kakyekorera might have, at least, made attempt to take advantage of the registration to mitigate the degradation attached to elopement. Rwabushoma, on the other, obstinately opposed his son-in-law, dismissing his actions as arbitrary.

The judgment did not touch on the contention between litigants concerning the efficacy of the formalized marriage registration. The magistrate esteemed custom. He had exhorted custom as an individual's responsibility for his/her conduct after reaching adulthood. This, simultaneously, curbed the former boundless, overwhelming power of a father. However, the magistrate could interfere in the conduct between a father and his adult son or daughter from a legal point of view. The shift to a new marriage custom mitigated the overloaded responsibilities and role of the family head, but still allowed the family head to retain absolute authority within the family.

#### Case 9 (claim for even share)<sup>21)</sup>

Nyehakanire, an inhabitant at Buhara, sued his real brothers to return fifteen plots of farmland which the two defendants had inherited. The plots were located at five separate places. The two defendants had twenty plots and fourteen plots respectively. The mother of the three brothers stated that, after her husband's death, she raised these three sons and gave them plots from their father's estate at the time of their marriage.

The judge rejected Nyehakanire's claim on the ground that no one could compel the mother to share the estates equally among the heirs.

The idea of even sharing was not alien to the Chiga custom of inheritance. Even sharing was, however, practiced solely in the case of intestate inheritance. Most of the estates were shared among the sons during their father's life time. The proportion of shares fully depended on the grantor. Nyehakanire opposed the custom. If any restriction is imposed on the arbitrary division of the estates, the father would eventually be deprived of "supervising" power over his sons.

The custom is that a father is obliged to pay bridewealth and to share a part of his estate with the son at the time of the first marriage. The shared estate should provide for the support of the life of the newly-wed couple and children. If the minimum requirement was fulfilled, however, the father was to determine how many plots he would share to each son. Normally more land was given to the compliant and the less

to the obstinate. In Case 9 a widow had given her deceased husband's estates as proxy. As she was vested with the same power as her deceased husband, no one could interfere with her in any way when dividing the estates between the sons. The judgment was observed faithfully as part of custom, which enhanced the paternal right to bequeath land.

The claim for even sharing had extended to become a common practice among Chiga farmers.<sup>22)</sup> As paternal rights declined increasingly in other phases, as seen below, often difficulties emerged in maintaining a father's autonomy and his exclusive decision in dividing his property.

## **2. Defied Authority**

Conventional paternal authority was widely challenged by assertive sons in the area around Buhara.

### **Case 10 (slighted father)<sup>23)</sup>**

Baguma, who lived in Kafunjo, filed a suit claiming Shs. 300 / = compensation for damages done to his house by his son, Kahwite. Baguma used to live in a grass-thatched building. He moved into a newly constructed, zinc-roofed house at Kahwite's request. Kahwite tore down the grass-thatched hut.

Baguma lived in the new house for two years. He was urged to move out of the house when hostilities developed between the father and the son. Because Kahwite did not attend court, he lost the case and was ordered to pay Shs. 300 / = to his father, Baguma.

Among the Chiga a house is normally built by a father and then given to his son. Case 10 occurred reversely. The grass-thatched hut was estimated at a value of around Shs. 1,600 / =, while the zinc-roofed was Shs. 2,200 / =, for it used corrugated iron sheets. Any one could save generously on the expenditures by a grass-thatched roof made of materials collected in his compound or from its neighbors: these materials were timber, clay, papyrus stems and elephant grass for roofing. The father had to pay for the sand laid on the floor and for the services of any construction laborer. It is common that such a hut is normally completed without paying cash for services. A zinc-roofed house, on the other hand, involved money rendered for services, any necessary materials as listed above, cement for floor and wall, iron sheets and, masons and roofers. The fees could be paid fully by one who is "well off" such as a member of the local elite.

Kahwite was a qualified teacher at a primary school. He might have been motivated to construct a house worthy to a man of prestige in the village. A grass-thatched hut could normally stand for twenty years before depreciation by termites. It was, however, dubious if Baguma's old house had been worn out for that reason. Kahwite might have defended himself at court, if he had torn down the old hut on this account. His absence from the trial may imply that he did not have any reasonable excuse for demolishing the house.

The direct cause of their inflamed hostility could not be specified. It is, however, not possible to deny that the son had always assumed the initiatives of the events: house construction, moving in, demolishing and moving out. The father could do nothing else but follow his son's instructions. Baguma might be positive in his behavior, having secured independence on account of his wages.

According to Chiga heritage, one could scarcely contravene one's father's command without running the risk of supernatural retribution. Even after his marriage and attainment of economic self-reliance, sons were to obey their father for fear that the father would invite retribution by ghosts by denying special services to ghosts or carrying out celebrations of the first fruits, or curse his son at his deathbed.<sup>24)</sup> Fathers had traditionally ruled family members.

Kahwite dared to ignore his father's authority in making decisions about important domestic affairs. In the other case a man endeavored to retaliate against his father, bringing the latter to court. Here governmental authority was used in a domestic quarrel.

#### Case 11 (committing violence) <sup>25)</sup>

An inhabitant of Nyabusika hamlet, Kazambya (aged 29) filed an assault case against his father Biteirwe (aged 50) and his half brother Miryango (aged 13). They fought in their compound so that Kazambya and Miryango might help their own mother, respectively. Kazambya's mother had initially been attacked by her husband, Biteirwe and her co-wife, Miryango's mother. Each co-wife had called for rescue and their real sons took sides with their mothers, fighting with each other. Kazambya was beaten by Biteirwe and Miryango and suffered injury near his eyes. The accused, Biteirwe, was fined Shs. 50 / = for having committed the assault.

In this resolution, paternal authority was utterly overshadowed by the power of the government. Biteirwe should, as head of the family, endeavor to reconcile his wives in the quarrel, but he became involved in the fight, taking the side of one wife. He should then be blamed as an irresponsible head of the family. The father used to be an almighty family member of the Chiga tradition. He was vested with punitive power, including capital punishment, over his dependants. Other family members, even an elder of the clan, could not intervene in domestic troubles and seek resolution. In Case 11 Biteirwe had laid aside his responsibility of supervision and was forced to surrender all of his authority to the government.

Although similar law suits as this are rare, one can easily find close examples.<sup>26)</sup> In another case, a father took his son to court as a means to show his displeasure of his son's committing assault.<sup>27)</sup>

Tension and confrontation between close kin increasingly turned up in the law court. Bachiga families, in general, tended to decompose in accordance with the decay of paternal authority and power which had constrained family members to desist any arbitrary or deviate conduct. The weakening of the power is due to the removal of reli-

gious sanction and increased opportunities of raising money which stimulated an individual's self-reliance and lessened restraint by the head of a family. The changing norm was, moreover, positively encouraged by the government, for the judgment shows the increasing role of legal action replacing the exercise of paternal power in domestic affairs.

## **Changing Kin Relations and Disputes**

### **1. Weakened Paternal Authority**

A lessening of paternal authority emancipated individuals from the communal bonds of the composite family. Those who were released would, however, be seized under an alternative coercion. Everybody should take no responsibility for one's conduct not only for one's kin, but for the sake of all those in the community. Then, no one would, any longer, be exempt from his/her negligence in observing the social rules under the protection by a family head. The social rules had also been subject to radical mutation. The conventional ways were extensively substituted by statute law. Everybody would, consequently, have to fulfill their assignments as detailed by government laws and regulations such as to paying a poll tax. Imposed legal obligations and coerced compliance of the legal norms demonstrated the power of a centralized government. Individuals were gradually forced to melt together into a national unity forming an integrated community sharing common norms.

#### **Case 12 (personal liability)**

This is the claim for retrieving bridewealth already cited in Case 8. The defendant Rwabushoma blamed Kakyekorera, the complainant, who had eloped with Rwabushoma's daughter. The father, Rwabushoma, was assertedly empowered to impose a fine of Shs. 100 / = to the abductor who should be liable for such actions.

Rwabushoma's defense was eventually rejected by the judge on the grounds that the woman had already reached her adulthood when she ran away to Kakyekorera. No one but herself is responsible for the decisions.

In the delineation of Case 8 the focus was set on the question of substituting the marriage registration for the "formal arrangement" of the marriage. Defied paternal authority was also denoted there. The latter is more relevant to the present argument. Rwabushoma insisted on Kakyekorera's liability according to Chiga customary rule which had vested a dominant role and high commanding power to the head of the family in the arrangement of marriage. In case of elopement the abductor would might normally be imposed a fine by the woman's father.<sup>28)</sup>

The judgment circumscribed conventional paternal power by stating that an adult daughter would no longer be bound by her father in her marriage arrangement because the conduct was not a family affair but a personal choice. The father's interference was virtually rejected by the law. A similar trend can be seen as relates to paternal control over family property.

Case 13 (disposal of inherited land)<sup>29)</sup>

Magyera purchased farmland from Barengyerehe (aged 27) for Shs. 50 / = in 1966. One day Rwamarachi uprooted 30 cypress which were growing on the land, and sowed sorghum. Magyera sued Rwamaraki for encroachment and claimed Shs. 41 / = for compensation.

The judge ruled in favor of Magyera. The defendant Rwamaraki was Barengyerehe's father. Rwamaraki was told that he did not retain any right to trespass upon the land which his son had inherited and had sold to another.

Barengyerehe was married and inherited a few plots of land in 1965. He sold some of them and emigrated to work in Buganda in the following year. The court had waited for his return until June, 1967.

Rwamaraki encroached upon the land so that he might show his opposition to the transaction. Barengyerehe had sold the land, violating his father's confidence on the proper use of inherited lands. A father apportioned his land in order to assist the new couple to support themselves and their dependants. Barengyerehe sold several plots soon after his inheritance. Rwamaraki might have been harassed due to Barengyerehe's behavior and reproached by his other sons and close kin. Barengyerehe might have intended to raise money by labor migration, but he failed to retrieve the sold lands. The judgment clarified the critical issue that any father could no longer inflict any control over land once apportioned to his son.

The use of the land for cultivating, herding or inhabiting is a sole mean for one's exclusive right to use the plot. Rwamaraki attempted to follow this conventional way in vain. Chiga custom allowed every head of the family to recapture any land which was apportioned to his sons. He was custodian of the family estates and cattle. Under his control, even married sons could scarcely misuse their apportioned farmlands. Any disobedience was firmly believed to undergo a supernatural sanction; a disease or calamity leading to death.

This newly introduced statute law totally eliminated the paternal right of intervention. The son achieved an exclusive right over inherited land. He was emancipated from his father in management of his property. The conventional idea of family assets no longer. By the same token, a widow was also removed from her former life-long confinement in her father-in-law's compound.

Case 14 (deliverance of a widow)<sup>30)</sup>

Rugyirabagabo's daughter was married to Kajure who lived in Kamuganguzi village (*gombolola*), west of Buhara. Kajure had died a few years after their marriage and she remarried with her deceased husband's brother, Sanvula. They lived together for several years and had two children.

One day Sanvula abused his wife. She went to her father's house, taking a child (aged 4), and never returned to Sanvula's. She was eventually detected living in the other village (*gombolola*), Kyanamira, which is north of Buhara. Sanvula accompanied her to Rugyirabagabo and demanded the refundment of



bridewealth, one cow and a bull, respectively, which had been delivered to Rugyirabagabo at Sanvula's marriage with the woman.

The judge rejected Sanvula's claim. He ruled that any widow should have achieved her full freedom at the death of her husband. Nobody could impede her to dispose her dead husband's property and to move wherever she wished.

This might be a typical instance of a levirate marriage. Moreover, the woman and Sanvula followed the conventional procedure of divorce closely. The Chiga had practiced levirate marriage extensively. (Edel 1957: 77) In exchange for returned bride wealth, a widow resumed her liberty to leave her marital family. In most cases, however, she might remain with them without refunding of bridewealth. If the widow was still young, she might be married to an adult son of one of her co-wives or one of the deceased husband's kin. Any marriage used to be an affair of the family. As seen in Case 8, a married woman was expected to stay with her husband's family for life.

Sanvula was married to the widow most likely in congruity with custom. As their marriage had lasted for a couple of years and they had two children, Rugyirabagabo should have been aware of his daughter's remarriage to Sanvula. The father-in-law might yet feign his ignorance apparently to be exonerated by the return of the bride-wealth.

The judge did not refer to any points of the dubious defense of Rugyirabagabo. He simply ruled that any marriage should be terminated when one of the members had passed away. A widow should be fully freed of the constraint inflicted by the marriage. The judge manifestly upheld the idea that any marriage should not be an affair between families but between the married individuals. Any direction should not be enforced consequently on the widow of her choices to dispose the inherited property or household thereafter. There was, needless to say, no necessity to return the bride-wealth.

The judgment disavowed the power of the head of the family in commanding and coercing his decision on his dependant after marriage. A father used to detain his married sons and their dependants within or nearby his own compound. Any married son completely relied on the father in daily life, economically, legally and religiously. The patriarchal extended family was also a self-sufficient, closed, an autonomous group in which everyone was impelled to conjoin and collaborate under the father's supervision. The government's refusal of this patriarchy caused the traditional social mechanism to cease its operation and dissolve.

In such circumstances, one is naturally inclined to opinions and actions widely deviating from the conventional. As the result, change took place in a variety of dimensions in rural life. If the trend of change was positively forwarded by the established centralized government, the effects would be tremendous.<sup>31)</sup> The government at the outset of the reform endeavored to demolish existing institutions of patriarchy and the paternal extended family which had forcibly constrained individuals under conservative norms of conduct. The emancipation would, moreover, be favorable to



the government in its concealment and mitigation of the newly inflicted tight restraint upon released individuals, who should join together as a larger group, the nation state, under the sway of legal norms.

## 2. Governmental Encouragement of Reform

Tax payment and observance of legal codes were essential demands of government.

### Case 15 (tax default)<sup>32)</sup>

Bagowabo and Rukanshugyirwa were arrested by a resident policeman for having failed to pay the 1967 poll tax. The policeman revealed that the accused had raised enough income to pay taxes, but had spent the sum on beer.

Bagowabo pleaded that he would pay the tax after having sold his sorghum. Rukanshugyirwa, on the other hand, swore to pay the sum if the due date would be deferred. The judge sentenced fourteen days of imprisonment to Bagowabo and Rukanshugyirwa. They were also ordered to pay a defaulted poll tax after serving the court sentence.

An adult man over eighteen years of age was obliged to pay poll tax at the village (*gombolola*) headquarters by the end of March every year. Any defaulter would be arrested either by the section (*muruka*) chief or by a resident policeman (*askari*), and would be sued at the village court. As for the graduated tax, the amount varied in accordance with the income from the previous year. The minimum sum was Shs. 20 / = for an unmarried, landless youth, and Shs. 40 / = for a married man. Elderly over sixty years of age and physically impaired persons were exempted from the tax imposition.

It is not common that one would pay in lieu of one's son or brother who might be experiencing financial difficulties or out in labor migration. Everyone was responsible for his own poll tax payment.

In the case of Rukanshugyirwa, his parents lived nearby. His father was already an elderly man, almost seventy years old. His mother was still in her early fifties, supporting her husband and sons by means of farm work. His half brother (aged 46) was a carpenter who could possibly lend the sum of the poll tax to Rukanshugyirwa. However, neither the father nor brother were asked for any assistance. As other farmers, Rukanshugyirwa had not taken the matter as a serious trouble until after he was arrested and penalized for the tax default.

It should be discreditable to the whole family that one of them would be sent to prison. The father still did nothing to save his son for the sake of the reputation of the family. He might lack any device of rescuing his son from "misfortune." The father was not concerned with the matter in earnest. He could scarcely make distinction between these two categories. Tax payment would, subsequently, mark an emblematic feature demonstrating a decomposing and individualizing trends in the conventional composite family.<sup>33)</sup>

#### Case 16 (neglect of regulations)<sup>34)</sup>

The resident health assistant brought four inhabitants to court; Bibikwa (aged 50), Binshobeire (aged 47), Bagyenyi (aged 60) and Bagoye (aged 47). These four men had failed to open windows or ventilating holes in their houses. They also neglected to set up either of the following constructions; a cooking hut, a bathing stand, a dump or a drying rack for cooking utensils. The accused had not attempted to improve their sanitary equipment indicated above, in spite of the repeated visits and persuasion by the health assistant.

All accused were eventually fined Shs. 15 / =.

The Chiga farmers used to live in a hemisphere hut which was covered with grass. No hygienic problem subsequently rose from indoor cooking, for smoke went through the walls quickly. The natural ventilation did not work well when they began to live in mudded-walls houses. Conventional indoor cooking affected them. People suffered from diseases in their eyes and lungs. Fresh air and natural light had to be introduced into the house. Other facilities for sanitary improvement were also demanded by the government.

A health assistant was stationed at the village in charge of the implementation of hygienic policy. He conducted door-to-door inspection and checked on the implementation of government regulations. He coerced some negligent villagers which led to suits. Those accused were mostly in their fifties. They lived below the Trading Centre where conventional hamlets had been founded for over one hundred years. They were the heads of individual composite families<sup>35)</sup>. Governmental supervision might have appeared them as excessive interference into their privacy. They could assumedly not to see the cause of the disturbance or the current trends which were undermining paternal authority.

#### Conclusion

The impact of Westernization caused universal disarray and repugnance in rural Chiga communities. The permeation of a money economy completely modified the customs, perspectives and actions of the farmers. It also caused cleavages between the commoners and local elites, i.e., between the ordinary cultivators and those earning an affluent monetary income. Some dispute cases at the village court reflected visibly these trends of changes in rural life. The judgments demonstrated the thinking of the government to bring about socio-economic change. It was, moreover, remarkable that the government took such positive action in changing rural society through the administration of law: demolition of the patriarchal family and the integration of emancipated individuals into a nation state.

The Chiga heads of individual families used to stand equal among one another, representing autonomous families. Elected hamlet chiefs, being delegates of a specific sub-clan, or even clan elders could barely intervene to reconcile heads of families in conflict. Either of these local influence was not vested power to interfere within domestic matters among individual composite families. The heads of the family had

maintained collaborative ties between themselves holding equal rank to one another. (Taylor 1962: 124–125)

This patriarchy was, however, almost completely eradicated by new legal arrangements. The head of the family had been disposed of his constraint power to his adult sons or daughters, or to any married-in woman on marriage arrangement, disposing of property or failing in tax payment. The government would not concede either any exceptional power or any autonomy to a composite family. No one could conceal his compound to the government officials such as to a *muruka* chief, an askari and administrative resident assistants, who incessantly were engaged in door-to-door inspections. Any hindrance against their visits or inquiries would eventuate in penal retribution.<sup>36)</sup>

The administration of the law at the village court was the most effective device for the government to implement their policy: coercing individuals to fulfill their essential duty by making poll tax payments and obeying the legal codes. The overwhelming power of the government could use the legal system forever to remind the people of their responsibilities. This appears to be a circuitous, but most cogent way of establishing the authority of a centralized government, which constantly penetrates its power down to the level of each individual in the country.

#### Notes

- 1) Omori 1970: 20–24, 1971: 54–55. See also my recent article. (Omori 1996: 133–161)  
The Chiga people are Bantu farmers who live in the highland of East Africa in Uganda, around 200 kilometers west of Lake Victoria. I lived with the Chiga for three months in 1967 and 1968. During that time, I stayed, mostly on weekends, with a local composite family. Tishekwa, a former *omutongole* chief, aged around 55, lived with two wives and their unmarried children, at Rutooma near Kabale. (Omori 1971: 53–54, Note 13) This was a rare opportunity of participant observation in a polygamous family, probing into the entangled counteractions between family members such as co-wives, real / half siblings, real / stepmother and children. Later I returned for seven months in 1974 and 1975, two months in 1984, and three weeks in 1991. I have sought to observe the sorts of changes that have occurred in their way of life over this period of time. (Omori, 1992)
- 2) Fallers (1969: 94–100) investigated the changes, consulting with the claims raised at Sabawari Village Court in Busoga. He compared seventy-five suits in 1923 with four hundred forty three cases registered in 1950. He noted increases in certain disputes such as the disobedience to the government, negligence of tax payment, troubles on land ownership by individuals (*ibid.*, 224) and affliction on human being and properties.
- 3) Nekam (1969: 169–171) specified major points relating to legal reforms in Uganda after independence: to turn the people from their clan or tribe to the central government so that the latter might establish a uniform legal system, and, for that purpose, to internalize Westernized patterns of thinking and behaving into the magistrates who would, then, lead the mass to the desired direction of change.
- 4) Pospisil (1969: 212–224) delineated an eventual decay of incest taboo owing to arbitrary violation by his fellow villagers. He noted the cause of the change: population imbalance between the lineages of the same allies. He predicted that the decay would bring the social effects such as enervation of their political alliance, an increase of disputes between the inhabitants within a community and improvement of woman's status.
- 5) 1966 Civil Suit, No. 89. (Omori 1970, Case 26)
- 6) Omori 1969b: 63–65.

- 7) 1967 Civil Suit, No. 32.
- 8) 1966 Civil Suit, No. 39. (Omori 1971: 61–62)
- 9) 1965 Civil Suit, No. 50.
- 10) 1966 Civil Suit, No. 44. (Omori 1971: 61–63)
- 11) 1966 Criminal Suit, No. 5.
- 12) Out of the nineteen suits, ten cases were treated at the court. The other eight suits were either dismissed for lacking evidence, or transferred to the Second Grade Magistrate Court on account of inappropriate jurisdiction.

In three civil suits the defendants stole some farm products and were penalized with fines. In two more cases, even though they were prosecuted under the Criminal Code, the accused were merely fined. Stealing cassava was punished with two months imprisonment. Cassava was not grown in this area and was possibly taken for an equivalent to a commercial item.

The other four criminal cases were for the theft of cash, a sweater, carpenter tools and cattle, in all of which the accused were penalized either with three or with six months imprisonment. (1965 Civil Suit, No. 26, 1965 Criminal Suit, Nos. 8, 19, 25, 28, 1966 Civil Suit, Nos. 25, 69, 1966 Criminal Suit, Nos. 5, 17, 61)

- 13) Omori 1970: 20–21. The accused were respectively inflicted heavier penalties on account of either having stolen a sweater from a handicapped person (unable to walk) or having slaughtered a stolen sheep.
- 14) 1967 Criminal Suit, No. 44. (Omori 1972: 42–43)
- 15) 1966 Criminal Suit, No. 43. (Omori 1972: 44–46)
- 16) Bampata might have earned around Shs. 200/= monthly from the Bus Company. Bakamunuza was a qualified primary school teacher and should have been paid at least Shs. 400/= per month. (Omori 1972, Notes 49, 57)
- 17) Ngabirano's acquittal virtually brought Magyera in danger of being sued for damaging personal honor, and charged a huge sum of compensation. (Omori 1972, Case 7, for an instance)  
His donation of the sums might intend to get rid of the danger. He might also have wished that the girl would develop an interest in Magyera.
- 18) 1967 Civil Suit, No. 33. (Omori 1972: 32, Note 4)
- 19) Edel 1957: 50–51. Any marriage was a contract between the families, in particular, the fathers of both sides, whose strongest concern was on the amount of bridewealth. The more the amount, the higher the bride was praised by the local people.
- 20) Edel 1957: 56. If the bride's father accepted the bridewealth, the child of the new couple would belong to the paternal line. If he refused, the child would be one of its mother's clan.
- 21) 1966 Civil Suit, No. 32. (Omori 1971: 60–62)
- 22) 1966 Civil Suit, No. 59. (Omori 1969a: 34–36, Case 1)  
1965 Civil Suit, No. 76. (Omori 1970: 7, 9–10, Case 2)
- 23) 1967 Civil Suit, No. 10. (Omori 1970: 13–14, Case 9)
- 24) Edel 1957: 122–123. A father would curse any disobedient child at his death bed, prohibiting the one to inherit any property or to have contracts with the other offsprings for life long. The 'death bed curse' could not be removed and was dreaded most gravely.
- 25) 1965 Criminal Suit, No. 45. (Omori 1971: 52–54, Case 2)
- 26) In this suit, 1966 Civil Suit, No. 43, a father was fined because he had uprooted trees on his son's land without the latter's consent. The land had originally been inherited from the defendant by the son.  
In the other case, 1967 Civil Suit, No. 67, a man raised an objection against the land which his father had given to the complainant's half brother. The claim was dismissed.
- 27) 1966 Criminal Suit, No. 45. (Omori 1971: 52–53, Case 1)
- 28) It appeared to be commonly practiced that a father inflicted a fine upon the abductor of his daughter for elopement. This was implied clearly in the cross examination to and the response from the defendant and his witness, No. 1. (Omori 1969a: 38)
- 29) 1966 Civil Suit, No. 107. (Omori 1970: 7–8, Case 3)
- 30) 1967 Civil Suit, No. 38. (Omori 1970: 15–17, Case 13)

- 31) Omori 1969b: 69–70, 72–73. The changes were in rapid progress at the various phases of Buhara farmers' life. Innovation were mainly forwarded by a variety of administrative assistants, schooling and reforms in juridic-administrative institutions.
- 32) 1967 Criminal Suit, No. 42. One similar case was denoted in Omori 1970: 21–22, Case 25. The Case 14 was heard at the court on the same day when the four accused were arrested. Rukanshugyruwa was the same one who had been the defendant of 1965 Civil Suit, No. 33, a claim for cutting down trees. (Omori 1970: 8, Case 6)
- 33) All able adult men over the age of 18 were required to pay the poll tax, except for the elderly and the impaired. The government might have introduced the poll tax not only to supplement financial need, but to improve the cash economy. (Bohannan 1967) Since everybody had to pay the tax in cash, they had to raise money by means of growing cash crops, undertaking wage work or running a business, being engaged in some activities of market economy, which would activate circulation of currency and commercial items countrywide. The emancipation of individuals and decomposition of conventional families were the unexpected consequence of the taxation policy.
- 34) 1967 Criminal Suit, No. 37. (Cf. Omori 1970: 21, Case 23) An Health and Hygienic Assistant Resided at the village (*gombolola*) headquarters as the other administrative assistants serving for the District Government. (Omori 1969b: 69–70)
- 35) Omori 1968: 158. Bibikwa had four wives. The other three were individually married with one wife, but had formed composite families with their married sons, respectively.
- 36) A *muruka* chief of Rwene sued Kajumbuka for obstructing his official duty pursuance. (1967 Criminal Suit, No. 12) The accused had allegedly abused to the chief, saying "If you come closer to my house, I will made you urinate into a calabash!" It occurred at the chief's visit to the accused's compound on the 4 January, 1967. The dispute was later reconciled and the suit was withdrawn by the *muruka* chief.

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